Frequently Asked Questions: Federal Contractors and E-Verify (Revised November 2009)

FEDERAL CONTRACTOR RULE OVERVIEW

What is E-Verify? How does it work? Why do Federal contractors have to enroll in E-Verify?

E-Verify is a free, Internet-based system operated by the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) in partnership with the Social Security Administration (SSA) that allows employers to verify the employment authorization of their employees. Based on the information provided by the employee on his or her Form I-9, E-Verify checks this information electronically against records contained in DHS and SSA databases.

On June 11, 2008, President George W. Bush amended Executive Order 12989 to direct all Federal departments and agencies to require Federal contractors with a Federal contract that contains the FAR E-Verify clause, to use E-Verify to verify the employment eligibility of employees performing work under a qualifying Federal contract. On November 14, 2008, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published a Federal Acquisition Regulation (FAR) final rule (FAR case 2007-013, Employment Eligibility Verification) that implements the amended Executive Order 12989.

FEDERAL CONTRACTS AFFECTED BY THE RULE

What is the FAR E-Verify clause?

The E-Verify Federal contractor rule requires the insertion of the FAR E-Verify clause into applicable Federal contracts, which requires Federal contractors to use E-Verify for their new hires and all employees (existing and new) assigned to a Federal contract. Beginning September 8, 2009, Federal contracts may contain the FAR E-Verify clause.

If my organization accepts grant monies from the Federal government, am I required to use E-Verify?

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If the FAR E-Verify clause is contained in the terms and conditions of your grant then you are required to use E-Verify.

What types of Federal contracts are exempt from the E-Verify Federal contractor rule?
A contract is considered exempt if one or more of the following apply:

- It is for fewer than 120 days
- It is valued at less than $100,000, the simplified acquisition threshold
- All work is performed outside the United States
- It includes only commercially available off-the-shelf (COTS) items and related services

What is considered to be a commercially available off-the-shelf (COTS) item?

A COTS item is a commercial off the shelf item that is sold in substantial quantities in the commercial marketplace and is offered to the government in the same form that is available in the commercial marketplace, or with minor modifications.

Are contracts for agricultural and food products exempt from the E-Verify Federal contractor rule?

Nearly all food and agricultural products fall within the definition of a COTS item. Federal contracts for COTS items are exempt from the rule. Federal contracts for food and agricultural products shipped as bulk cargo, but that otherwise would be considered COTS items, such as grains, oils and produce, are also exempt. Subcontracts that only provide supplies, such as food, are exempt from the E-Verify Federal contractor rule.

Does the E-Verify Federal contractor rule extend to contracts outside the United States?

The E-Verify Federal contractor rule applies only to employees working in the United States, which includes the 50 States, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

Do any organizations have exceptions to the E-Verify Federal contractor rule?

Yes. The E-Verify Federal contractor rule requires most Federal contractors to use E-

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Verify for all new employees, regardless of whether the employees are assigned to a Federal contract. However, certain Federal contractors need only use E-Verify to verify the employment authorization of employees assigned to a covered Federal contract. These include:

- State and local governments
- Governments of federally recognized Native American tribes
- Sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond

For specific instructions on exempt organizations, see the *Supplemental Guide for Federal Contractors.*

EXISTING FEDERAL CONTRACTS THAT CAN BE BILATERALLY MODIFIED TO INCLUDE THE FAR E-VERIFY CLAUSE

Does the E-Verify Federal contractor rule apply to existing indefinite-delivery/ indefinite-quantity (IDIQ) contracts?

Federal contractors together with government contracting officials may bilaterally modify an existing IDIQ contract to include the FAR E-Verify clause for future orders in accordance with FAR 1.108(d)(3) if:

- The remaining period of performance extends at least six months after the E-Verify Federal contractor rule effective date
- The amount of work or number of orders expected under the remaining performance period is substantial.

EMPLOYEES AFFECTED BY THE RULE

Are employees hired on or before November 6, 1986, exempt from the FAR E-Verify clause?

Yes. Employees hired on or before November 6, 1986, and still in continuous employment, cannot be verified in E-Verify. The Immigration Reform and Control Act of 1986 (IRCA) does not allow employers to complete Forms I-9 for these

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employees. As a result, the FAR also excludes employees hired on or before November 6, 1986.

Form I-9, Employment Eligibility Verification, is the basis for E-Verify. Since Form I-9 cannot be completed for these employees, you cannot perform an E-Verify query on these employees.

How do I know which employees are considered to be performing work directly under a Federal contract that contains the FAR E-Verify clause?

Existing employees assigned to a federal contract are bound by the FAR E-Verify clause. Employees are only considered assigned to a contract if they are directly performing work under the federal contract. An employee is not considered to be directly performing work under the contract if the employee normally performs support work, such as indirect or overhead functions, and does not perform any substantial duties under the contract. E-Verify is not able to make this determination for you. For more information, please consult your legal counsel and/or contracting official.

My employee is working directly on a Federal contract that contains the FAR E-Verify clause. However, her employment on the contract will only last for a few days. Is this employee exempt from the E-Verify requirement?

No. The rule does not exempt employees based on the intermittent nature of the work or the length of time spent performing the work. Note that this employee must complete Form I-9 and be verified through the E-Verify system.

If an employee has been previously verified in E-Verify, do I need to run this employee through E-Verify again?

If you have previously verified this employee in the E-Verify system, you may not do so again. However, if the previous verification in E-Verify was done by another employer, you must verify this employee in E-Verify. For more information on employees exempt from the FAR E-Verify clause, see the Supplemental Guide for Federal Contractors.

Are F-1 students who attend a university that is enrolled as a Federal contractor eligible for the 17-month F-1 OPT STEM extension?

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For an F-1 OPT STEM student to be eligible for the 17-month extension, the university, as an employer, need only be enrolled in E-Verify. It does not matter how the university enrolls. Employees are eligible for the 17-month OPT STEM extension whether the university enrolls as an employer, a Federal contractor without the E-Verify clause, or a **Federal contractor with FAR E-Verify clause**. All E-Verify participants will receive an E-Verify ID number that an F-1 OPT STEM student requires when filing Form I-765, Application for Employment Authorization.

I am a university that has a Federal contract with the FAR E-Verify clause but I have not yet enrolled in E-Verify. I have one or more employees who are F-1 OPT STEM students who are seeking a 17-month extension of their OPT status. Do I need verify these employees in E-Verify?

If your organization has a Federal contract with the FAR E-Verify clause and wants to hire students on a STEM extension, you must enroll in E-Verify and use E-Verify for **all new hires**, not just a student on a STEM extension.

Since you are an organization that is an institution of higher education, you must enroll in E-Verify and verify the employment authorization of your existing and new employees assigned to the Federal contract, but not all newly hired employees. However, your organization may choose to use E-Verify for all new hires. If your organization is both a Federal contractor and wishes to hire F-1 OPT STEMs, it must verify all new hires plus existing employers assigned to the Federal contract as required by the Federal contractor rule.

Must the F-1 OPT STEM student work on a Federal contract and be classified as an "employee assigned to the contract" to qualify for the 17-month extension?

No. The student does not need to be assigned to a Federal contract with the E-Verify clause to be eligible for the 17-month extension. The student still must meet the OPT eligibility criteria regardless of how the university is enrolled.

BEFORE YOUR COMPANY ENROLLS IN E-VERIFY

When are Federal contractors required to enroll in E-Verify?

The E-Verify Federal contractor rule requires Federal contractors to enroll in E-Verify only if they are awarded contracts or have existing IDIQ contracts that are bilaterally modified to contain the FAR E-Verify clause on or after September 8,

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2009.

If you have already enrolled in E-Verify and you are awarded a Federal contract containing the FAR E-Verify clause on or after September 8, 2009, you must update your **Maintain Company** page to designate yourself as a **Federal contractor with FAR E-Verify clause** and take a Federal contractor tutorial. For more information on enrolling in E-Verify, or, for existing users updating your enrollment status, see the *E-Verify User Manual for Federal Contractors.*

How do I enroll my company in E-Verify?

You must enroll your company before you can start using E-Verify. To do so, you must provide your company's basic contact information and agree to follow the rules of the program. After enrolling, you must sign a Memorandum of Understanding (MOU) that provides the terms of agreement between your company and DHS.

Please click click on the "E-Verify Registration" link in the right-hand column on this page to enroll your company. For specific instructions on how to enroll, see the *E-Verify User Manual for Federal Contractors and Supplemental Guide for Federal Contractors* found on this Web site.

Once you have enrolled, E-Verify will review your information and activate your account. After the account is activated, you will receive an e-mail with your login instructions, user ID, and password.

My company was just awarded a Federal contract and the E-Verify Federal contractor rule is now in effect. How soon must my company enroll in E-Verify?

The contractor and any covered subcontractors must enroll in E-Verify within 30 calendar days of the award date of a contract or subcontract that contains the FAR E-Verify clause.

I am a Federal contractor with the FAR E-Verify clause. Which sites must I designate as hiring sites in E-Verify?

If you are not currently enrolled in E-Verify and are choosing your hiring sites, during enrollment, you must designate every hiring site at which you will:

1) Hire new employees, and/or

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2) Verify existing employees.

If you are already enrolled in E-Verify and your company has been using E Verify at only certain hiring sites, you must now designate all of your company's hiring sites. You must also update your **Site Verification** page as discussed in the *E-Verify User Manual for Federal Contractors.*

Is it possible to download and review the FAR tutorial before registering?

No. Only users that enroll in E-Verify as Federal contractors or existing participants who update their status in the **Maintain Company** page to indicate that they are a **Federal contractor with FAR E-Verify clause** will be able to view and complete the E-Verify Tutorial for Federal Contractors.

ENROLLMENT

I am a Federal contractor but I do not have any contracts that contain the FAR E-Verify clause. What do I do?

Although you are not required to join E-Verify, you may do so. E-Verify is the best means available to verify the employment authorization of employees. However, if you enroll prior to receiving a Federal contract that contains the FAR E-Verify clause, you may only verify new hires and will not be allowed to verify existing employees.

When enrolling, an E-Verify screen will ask, **Which category best describes your organization?** If you are a Federal contractor that does not have a contract that contains the FAR E-Verify clause, you should select **Federal contractor without FAR E-Verify clause.**

As a Federal contractor, must I notify my existing employees individually that I must verify them in E-Verify?

No. The E-Verify MOU only requires employers to "display the notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system." Displaying the E-Verify notice prominently where both prospective and existing employees can see it constitutes your notification.

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As a Federal contractor with a Federal contract that contains the FAR E-Verify clause, may I use the information in our Human Resources' employee database instead of Form I-9 to verify my employees in E-Verify?

The E-Verify process is based on information collected from Form I-9. You may only run an E-Verify query using your database's information if you have carefully reviewed the Form I-9 and:

- Your database contains the relevant Form I-9 information needed to run an E-Verify query
- You determine that you do not need to complete a new Form I-9 because the employee's existing Form I-9 complies with current Form I-9 regulations relating to Federal contractor with the FAR E-Verify clause. For more information, see the Supplemental Guide for Federal Contractors.

Once I have enrolled in E-Verify, how do I provide proof of my participation?

To provide proof of enrollment in E-Verify:
Step 1: Click **Maintain Company** from the E-Verify home page.
Step 2: E-Verify will display all of your company's information – the company name, company ID number, address, etc.
Step 3: Print the page using your browser's print option and use it as proof of enrollment in E-Verify.

I am an existing E-Verify participant who has recently received a Federal contract that contains the FAR E-Verify clause. Will I need to sign a new Memorandum of Understanding (MOU) for Federal contractors?

No. Do not re-enroll in E-Verify to obtain the new MOU. Existing employers that have already signed an MOU are not required to re-sign a new one. If you receive a contract that contains the FAR E-Verify clause, you should update your status in E-Verify to Federal Contractor with FAR E-Verify clause. Additionally, for your reference, you should go to the Federal Contractor page by clicking "Information for Federal Contractors" link on the left side of this page to obtain a copy of the MOU with the information for Federal contractors.

I am an existing E-Verify participant who signed an MOU that does not contain language specific to Federal contractors with the E-Verify clause. What do I need to do?

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Depending on when your company enrolled in E-Verify, the MOU that your company signed may not contain the new Federal contractor-specific terms. All E-Verify-enrolled companies must comply with the terms of the latest MOU. We recommend that you review the current MOU to ensure your company complies with any new terms. To read the new MOU, go to the "Information for Federal Contractors" link on the left side of this page.

Is the MOU that is issued to Federal contractors that have a contract that contains the FAR E-Verify clause the same one that is signed by other employers?

Yes. The current MOU is applicable to both Federal contractors that are subject to the FAR E-Verify clause and other employers.

I am a Federal contractor with the FAR E-Verify clause. May I verify my entire workforce?

Yes. Subject to certain exemptions that apply to certain organizations and employees, you may choose to verify your entire existing workforce. You must notify DHS if you choose to verify your entire workforce. For specific information on Form I-9 and E-Verify requirements, as well as how to notify DHS of your decision, see the E-Verify User Manual for Federal Contractors and the Supplemental Guide for Federal Contractors.

My company enrolled in E-Verify, but did not enroll as a "Federal contractor with FAR E-Verify clause." Does my company need to re-enroll to comply with the E-Verify Federal contractor rule?

No. You do not need to enroll again, but you will need to update your company profile to **Federal contractor with FAR E-Verify clause** through the **Maintain Company** page. For specific instructions on how to do this, see the E-Verify User Manual for Federal Contractors.

Note that once you designate your organization as a **Federal contractor with FAR E-Verify clause**, you must take a Federal contract tutorial.

How long will I have to verify my existing employees?
You will be required to initiate verification of all existing non-exempt employees

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assigned to the qualifying contract within 90 calendar days of designating your company as a **Federal contractor with FAR E-Verify clause** in E-Verify and selecting which employees you will verify.
If your are choosing to verify your entire workforce, you will also be required to initiate verification of all remaining existing non-exempt employees within 180 calendar days of selecting **Entire Workforce**, for more information on these timelines, see the Supplemental Guide for Federal Contractors and the E-Verify User Manual for Federal Contractors.

Will there be an abbreviated FAR tutorial for companies that already took the regular tutorial?

Yes. If you are already enrolled in E-Verify and if you update your organization designation to a **Federal contractor with FAR E-Verify clause**, the E-Verify system will automatically require you to complete a refresher tutorial that will review the new processes associated with the FAR E-Verify rule. The refresher tutorial is an abbreviated tutorial that takes less than 30 minutes to complete.

SUBCONTRACTORS AND AFFILIATES

Does the rule apply to subcontracts?

The E-Verify Federal contractor rule requires certain Federal prime contractors with the FAR E-Verify clause to require their subcontractors to use E-Verify when:

1. The prime contract includes the FAR E-Verify clause
2. The subcontract is for commercial or noncommercial services or construction
3. The subcontract has a value of more than $3,000
4. The subcontract includes work performed in the United States

Subcontractors who are suppliers are not subject to the E-Verify Federal contractor rule.
The prime contractor should provide general oversight to subcontractors to ensure they meet the E-Verify requirement. The prime contractor may be subject to fines and penalties if it knowingly continues to work with a subcontractor who is in violation of the E-Verify requirement. The prime contractor must, by whatever means the contractor considers appropriate, ensure that all covered subcontracts at every tier incorporate the FAR E-Verify clause at FAR 52.222-54. For more information on subcontractors, see the *Supplemental Guide for Federal Contractors*.

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Can USCIS identify which subcontractors are subject to the FAR requirements?

No. The E-Verify system does not distinguish between a prime contractor and a subcontractor. It only differentiates between Federal contractors with contracts that do or do not contain the FAR E-Verify clause. For more information on subcontractors, see the *Supplemental Guide for Federal Contractors*.

Can subcontractors choose to verify existing workers not assigned to the contract?

Yes. During the E-Verify enrollment process, the subcontractor has the same verification options as the prime contractor with a contract that contains the FAR E-Verify clause. Prime and subcontractors can choose to verify:

- All new hires and all existing non-exempt employees assigned to a Federal contract, or
- Their entire non-exempt workforce (all new hires and all existing employees throughout the entire company).

I am a subcontractor working for a prime contractor that has a Federal contract that contains the FAR E-Verify clause. How do I know if I am affected by the contract?

If a prime contractor's Federal contract contains the FAR E-Verify clause, the provisions of that clause flow down to all tiers of subcontracts. Consult your prime contractor, who should provide you with general oversight to ensure that you meet the E-Verify requirement. For more information, consult your legal representative. For information on subcontractors, see the Supplemental Guide for Federal Contractors.

I am a subcontractor that has employees working under a Federal contract that contains the FAR E-Verify clause. Will the prime contractor enroll me in E-Verify or do I enroll myself? If I need to enroll myself, how do I enroll in E-Verify?

Subcontractors must enroll themselves in E-Verify and select **Federal contractor with E-Verify clause** if they have employees who must be verified in E-Verify. The prime contractor cannot independently verify the employees of the subcontractor in E-Verify. However, the parties may agree to allow the prime contractor to act as a

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Designated Agent on behalf of the subcontractor. For general information about Designated Agents, see below. For information on enrolling in E-Verify as a Designated Agent or a Client of a Designated Agent, see the E-Verify User Manual for Federal Contractors

My company has several divisions and affiliates. When determining which new and existing employees must be verified in E-Verify, does it matter if my affiliates are separate legal entities for tax purposes?

Only the legal entity (business) that signs the contract is considered the contractor, and is bound by the E-Verify obligation. Whether certain subsidiaries and affiliates are a part of a legal contracting entity depends on the specific factual context. Consult your legal representative and government contracting official if you have additional questions about these topics. For information about verifying your existing workforce if you are a Federal contractor with a contract that contains the FAR E-Verify clause, see the Supplemental Guide for Federal Contractors.

DESIGNATED AGENTS

What is a Designated Agent?

A Designated Agent is an E-Verify service provider. The Designated Agent uses E-Verify to verify the employment authorization for their clients' employees.

What must a Designated Agent do to verify the employees of a Federal contractor with a contract that contains the FAR E-Verify clause?

After your client signs a Designated Agent/Client MOU, you must update your **Client Company Administration** page to indicate that your client is a **Federal contractor with FAR E-Verify clause.** You must also enter your Client's **Organization Designation** as well as update the Client's **Federal Contractor Category** page with the correct information. For more information, see the *E-Verify User Manual for Federal Contractors.*

What if a Designated Agent receives a contract with the FAR E-Verify clause? How would a Designated Agent verify its own employees?

Designated Agents may verify their employees in one of two ways:

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- Enroll in E-Verify by signing a separate Memorandum of Understanding (MOU) as an employer. If a Designated Agent is already enrolled as an employer, it must update its status in E-Verify to reflect the new status of **Federal Contactor with FAR E-Verify clause.**
- Register your own company as a client on the **Client Company Administration** page. If the Designated Agent is already enrolled as a client, it must update its status on the **Client Company Administration** page to **Federal Contactor with FAR E-Verify clause.**

Must Designated Agents take the E-Verify tutorial for Federal contractors?

Yes. All of your program administrators and general users must complete a Federal contractor-specific tutorial and pass a mastery test before they can access E-Verify again. When Designated Agents update one of their clients to **Federal Contactor with FAR E-Verify clause** in your **Client Company Administration** page, they must take a refresher tutorial.

I am a Designated Agent with several clients that were just awarded Federal contracts that contain the FAR E-Verify clause. Will I be required to take a refresher tutorial every time I update my clients' information on my Client Company Administration page?

No. You are only required to take the refresher tutorial once after updating just one client to **Federal Contactor with FAR E-Verify clause** on your **Client Company Administration** page.

Can a subcontractor use a Designated Agent that is not the prime contractor?

Although prime contractors may act as the Designated Agent, subcontractors are not limited to this relationship. Subcontractors may choose another Designated Agent to perform E-Verify duties.

Can a Designated Agent process E-Verify queries for other Designated Agents?

No. The Designated Agent relationship is formed by three parties. These parties are listed on the Designated Agent and Designated Agent/Client MOUs: The Designated Agent, the employer (or Federal contractor) and DHS. The Designated Agent may not delegate duties to a person or entity that is not party to the contract. These situations would raise security problems and privacy concerns, as well as training difficulties.

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Why must an employer make copies of supporting documents when the Photo Matching tool is not available to Designated Agents?

Although the Photo Matching tool is not yet available to Designated Agents, this feature will soon be added. E-Verify requires that Designated Agents follow all E-Verify system requirements, which include making photocopies of supporting documents.

WEB SERVICES

What is Web Services? If I chose to enroll using this access method, will I be able to comply with the time requirements in the FAR?

The Web Services Access Method requires a company to develop software that interfaces with USCIS to perform employment eligibility verifications of newly hired employees. Your company's software will extract data from your existing system or an electronic Form I-9 and transmit the information to government databases. If you choose this option, you will be sent the Employer Web Services Interface Control Document (ICD). The ICD contains the information you need to develop and test your software interface. Note that adopting Web Services requires a significant amount of time and financial investment to develop, test and implement Web Services.

What is the minimum version of E-Verify Web Services that supports the FAR?

We are now able to support FAR access via Web Services on ICD versions 14 and higher.

I am a software engineer who wants to develop Web Services applications for Federal contractors affected by the FAR E-Verify clause. What do I do to begin?

The Employer Web Services ICD contains the information you need to develop and test your software interface. You can begin this process in one of two ways:

To use Web Services, you must enroll in E-Verify. Once you enroll and sign your MOU, you then can request the ICD by sending an e-mail to www.viswebservices.test.csc.com.

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ADDITIONAL INFORMATION FOR ALL USERS

May I use E-Verify prior to making a job offer to a job applicant?

No. You may not use E-Verify to pre-screen employees. By signing the MOU to participate in E-Verify, you agree not to use E-Verify for pre-employment screening of job applicants, any unlawful employment practice, or any use not authorized by the MOU. If you use E-Verify procedures for any purpose other than as authorized by the MOU, you may be subject to appropriate legal action and termination of your access to E-Verify. In particular, prescreening applicants on the basis of citizenship status or national origin may violate the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b.

Does participation in E-Verify provide safe harbor from worksite enforcement?

No. Using E-Verify creates a rebuttable presumption that your company has not knowingly hired an unauthorized alien. However employers may face civil and criminal liability if based upon the totality of the circumstances it can be established that they knowingly hired or continued to employ unauthorized workers. Participation in E-Verify does not provide a safe harbor from worksite enforcement.
If my company participates in E-Verify, must we notify applicants of our participation?
Yes. You must post the notice provided by DHS indicating your company's participation in E-Verify as well as the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the Department of Justice in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through E-Verify. Once you are enrolled, and able to log into E-Verify, these notices can be found in the **Online Resources** section.

My company's Federal contract has ended. May we continue to use E-Verify?

Yes. Your company may continue to use E-Verify after the Federal contract has been fulfilled. You must update your company profile through the **Maintain Company** page to indicate **Federal Contractor without FAR E-Verify Clause**.

If you choose to terminate your use of E-Verify for a period of time, then re-enroll, you will be unable to verify your existing employees until you receive another contract that contains the FAR E-Verify clause and enroll as a **Federal Contractor**

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with FAR E-Verify Clause.

If you are an organization that qualified for an exception that allowed you to only verify new hires assigned to the Federal contract, once you update your company profile to indicate **Federal Contractor without FAR E-Verify Clause**, you will no longer qualify for that exception. You will be required to verify all newly hired employees.

For information on certain organizations that qualify for exceptions, as well as instructions on updating your company profile, see the Supplemental Guide for Federal Contractors. For information on terminating your participation in E-Verify, see the *E-Verify User Manual for Federal Contractors.*

My company's Federal contract has ended. Do we need to notify USCIS if we no longer want to participate in E-Verify?

Yes. Federal contractors who no longer wish to participate in E-Verify after a contract has ended can terminate their participation by selecting **Request Termination** on your **Maintain Company** page in E-Verify. If your company fails to do so, the terms of the MOU remain in place. For specific information on terminating your participation in E-Verify, see *E-Verify User Manual for Federal Contractors.*

I am a Federal contractor with the FAR E-Verify clause. When completing a new Form I-9, my new employee presented a State-issued driver's license that does not have a photo on it. The employee explained that there is no photo due to his/her religious beliefs. What do I do?

E-Verify employers are required to only accept List B documents that have a photo. However, if your employee has presented a List B document that does not have a photo due to religious reasons, you should contact E-Verify at 888-464-4218.

FAR E-VERIFY CLAUSE NON-COMPLIANCE

What are the consequences of not providing employees with TNC notices or discouraging them from contesting?

You must provide an employee who receives a Tentative Nonconfirmation (TNC) with the E-Verify-generated TNC notice. You must also allow the employee to

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contest the TNC if he or she chooses to do so. Employees must be allowed to continue to work without penalty during the TNC process. Failing to allow an employee to contest a TNC is a violation of the MOU and could be grounds for suspension or debarment. Taking adverse action against an employee based on a TNC alone may violate the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b.

Where can I find additional resources?

The Supplemental Guide for Federal Contractors contains more information on E-Verify procedures and requirements. You can download this guide from this Web site. You may also call E-Verify Customer Support at 1-888-464-4218.

For more information about unfair employment practices under the anti-discrimination provision of the Immigration and Nationality Act, contact the Office of Special Counsel for Immigration-Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice, at 1-800-255-7688 or click on the "Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC)" link in the right column of this page.

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